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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

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PARK PLAZA CONDOMINIUM
ASSOCIATION,

Plaintiff,

v.

THE TRAVELERS INDEMNITY
COMPANY OF AMERICA AND
PHOENIX INSURANCE COMPANY,

Defendants.

Cause No.: 17-CV-00112-BMM-JTJ

**PLAINTIFF'S PRELIMINARY
PRETRIAL STATEMENT**

* * * * *

COMES NOW the above-named Plaintiff, Park Plaza Condominium Association (Park Plaza), pursuant to Local Rule 16.2(b), and hereby submits its Preliminary Pretrial Statement as follows:

A. BRIEF FACTUAL OUTLINE.

Park Plaza is an association of people who own 35 individual units of a condominium building. Since 2009, the Park Plaza has been insured by five separate entities, all affiliated with the Travelers Companies, Inc., under which policy the insurers promise to pay up to the replacement cost of \$13,549,116.00 for direct physical loss or damage to the building caused by wind-driven rain and other direct physical loss such as wind storms or other causes. There are no

exclusions in the policy that exclude coverage for the claimed damage to the park plaza building. Since 2009, up to the present time, the high velocity winds, rain and hail in Great Falls have caused extensive damage to the exterior envelope of the Park Plaza, with resulting damage to certain interior portions. The cost of repairing the damage has been determined to be \$4,317,181.00, and Park Plaza has demanded that the insurance companies admit or deny coverage and pay the damages. They have refused. Park Plaza made its demand upon the insurers to admit or deny coverage and to pay as early as March 27, 2017. The insurers have forced Park Plaza to file this action in Court to obtain the full benefit of its insurance contract and the insurers are liable to Park Plaza for its attorneys' fee incurred and the interest on the unpaid portion.

B. BASIS FOR FEDERAL JURISDICTION AND VENUE.

This Court has jurisdiction pursuant to 28 U.S.C. § 1332, diversity of citizenship, and venue is proper in this division because the building is in Great Falls, Montana.

C. FACTUAL BASIS.

Park Plaza is contractually entitled to recover under the insurance policy in question.

D. LEGAL THEORY UNDERLYING THE CLAIM.

This is a claim for breach of contract and a claim for attorneys' fees, pursuant to Montana law, which allows attorneys' fees when an insured is forced to file an action to obtain the full benefit of its insurance contract.

E. COMPUTATION OF DAMAGES.

Park Plaza's architect has determined the damages to be \$4,317,181.

F. ANY RELATED LITIGATION.

None.

G. PROPOSED ADDITIONAL STIPULATIONS OF FACT.

None.

H. PROPOSED DEADLINES RELATING TO JOINDER OF PARTIES OR AMENDMENT OF THE PLEADINGS.

January 12, 2018. Park Plaza will be amending the Complaint to add the other insurers under that were part of the Travelers Companies' umbrella, and also to add a claim for interest.

I. IDENTIFICATION OF CONTROLLING ISSUES OF LAW SUITABLE FOR PRETRIAL DISPOSITION.

The insurers have filed a counterclaim for a declaratory judgment action, which is subject to Park Plaza's Motion to Dismiss.

J. INDIVIDUALS WITH INFORMATION THAT MAY BE USED TO SUPPORT PARK PLAZA'S CLAIMS.

1. George Cozino, Previous Manager of Park Plaza
2. Paul Johnston, Previous Manager of Park Plaza
3. Robert Martin, Manager of Park Plaza
4. Patti Kercher
5. Mary Schuler
6. Jack Boettcher
7. Dennis James
8. Diane Carter
9. John Bolton, CTA Architects

K. SUBSTANCE OF ANY INSURANCE AGREEMENT.

Policy No. 680-4460N581

L. STATUS OF SETTLEMENT DISCUSSIONS.

None.

M. SUITABILITY OF SPECIAL PROCEDURES.

None.

DATED this 27th day of November, 2017.

HOYT & BLEWETT PLLC

By: /s/ Alexander Blewett, III
Alexander (Zander) Blewett, III
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on this 27th day of November, 2017, a copy of the foregoing document was served on the following persons by the following means:

<u>1, 2</u>	CM/ECF
<u> </u>	Hand Delivery
<u> </u>	Mail
<u> </u>	E-Mail

1. Clerk, U.S. District Court
2. Guy W. Rogers
Jon A. Wilson
Brown Law Firm, P.C.
P.O. Drawer 849
Billings, MT 59103-0849

Attorneys for Defendants

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By: /s/ Alexander Blewett, III
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